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NOTE

from :	Presidency
to :	Friends of the Presidency Group
Subject :	Proceedings of the Working Party on Own Resources on the proposals for the system of own resources of the European Union

During its meetings on 6 and 26 September and 11 October 2011, the Working Party on Own Resources examined the Commission's proposals on a reform of the EU own resources system for the next multiannual financial framework (MFF). The Commission provided an overview of the structure and the content of the different proposals as well as motivations for the reform and underlined their direct link with its proposal on the MFF 2014-2020[1]. The Working Party has concentrated on technical clarifications on issues related to the proposed changes on the revenue side of the EU budget in order to allow a better understanding of the whole Commission's package.

This note represents the Presidency's summary of main elements and remarks resulting from this examination.

[1] Doc. 12475/11 CADREFIN 51 POLGEN 113 FIN 493.

I. Legislative package

1. The Commission prepared the following draft legal acts that represent the basis for a reshaping of the EU financing system: the Proposal for a Council Decision on the system of own resources of the European Union[1] (ORD), the Proposal for a Council Regulation laying down implementing measures for the system of own resources of the European Union[2] and the Proposal for a Council Regulation on the methods and procedure for making available the traditional and GNI-based own resources and on the measures to meet cash requirements[3].

2. The Commission announced that the presented legislative package would be amended and complemented by additional implementing regulations in order to take into account future developments in the legislative framework of proposed new own resources, i.e. financial transaction tax (FTT) and new VAT own resource.

3. The new legal framework implies the division of the relevant provisions between the ORD and implementing regulations, especially as regards the tax rates applicable to the new own resources. The Commission explained that implementing rules under Article 311, fourth paragraph TFEU comprised all practical arrangements needed for safeguarding sufficient flexibility in the system of own resources within the MFF and the limits set by the ORD. Thus, the Commission proposed to regulate the applicable shares and rates for the new own resources in implementing rules in order to ensure proper flexibility in making timely adjustments of their level (instead of the lengthy procedure for the amendment of the ORD).

[1] Doc. 12478/11 CADREFIN 52 RESPR 5 POLGEN 115 FIN 495.
[2] Doc. 12480/11 CADREFIN 53 RESPR 6 POLGEN 116 FIN 496.
[3] Doc. 12483/11 CADREFIN 54 RESPR 7 POLGEN 117 FIN 497.

II. The content of the Commission proposal

4. The Commission emphasised that the proposed reform of the own resources system was based on three interdependent elements: the introduction of new own resources, the change of the current system of correction mechanisms and the simplification of Member States' contributions (through the elimination of the current VAT-based own resource). In the Commission's view these elements represented a balanced package which had to be examined and considered as a whole in the context of a single decision on the EU's own resources system.

New own resources: FTT

5. The Commission gave an overview of its proposal for a Council Directive on a common system of FTT[1], in particular as regards the objectives of its introduction, the scope of the tax, the tax base and the applicable rates. It informed that amended proposals for the ORD and its implementing regulation, taking into account the provisions laid down in the Directive on FTT, were foreseen to be adopted by the Commission in November 2011. In addition, a proposal for a new Council Regulation on the methods and procedure for making available the FTT-based own resource would be adopted. The purpose of the amendments and the new Council Regulation would be to clarify the practical implementation of the FTT-based own resource in particular as regards the level of the tax.

6. Some delegations expressed concern that the proposed system of FTT in the EU could lead to a major relocation of financial institutions and activity between Member States (as a result of the possibility of application of different tax rates by Member States) and towards non-EU countries (as a result of its limitation to the EU dimension). Therefore, they indicated the need to adopt global, preventive measures to reduce possible negative consequences such as the relocation of transactions, the deterioration of European competitiveness and the risk of a negative impact on GDP growth.

[1] Doc. 14942/11 FISC 121 ECOFIN 651.

7. Some delegations warned that the FTT could result in a reduced volume of transactions and less liquidity in financial markets. In this respect the Commission argued that thanks to its introduction speculative activity would be discouraged.

8. A number of delegations asked whether the proposed introduction of the FTT could lead to significant administrative costs. The Commission indicated that, as shown in its analyses, administrative costs for a FTT could be small compared to other taxes.

9. Delegations requested the Commission to provide an estimate of the distributive effects of the FTT (i.e. of the revenue per Member State). Additionally they asked for a clarification of some perceived inconsistencies between the detailed impact assessment on the FTT introduction and data presented in other documents relating to FTT issues. The Commission stressed that the revenue from the FTT could be shared between the EU budget and the Member States' budgets in a proportion to be determined in the implementing regulation. This explained that the total amount estimated in the FTT Directive was higher than the estimate mentioned in the proposed ORD.

10. Some delegations indicated a possible conflict between the proposed system of FTT and the Member States' tax sovereignty, pointing out that, according to the TFEU, tax decisions at the EU level require unanimity. The Commission recalled that the ORD required unanimous adoption and ratification by each Member State, which protected national sovereignty, leaving the special legislative procedure foreseen in implementing acts for further deliberations.

<u>New own resources: VAT and the elimination of VAT-based OR</u>

11. The Commission announced that the Communication on the future VAT strategy was expected to be finalised by the end of November 2011. The new proposal for a Council Regulation on the methods and procedure for making available the new VAT own resource would also be adopted in November.

12. In response to a request from delegations the Commission presented the main differences between the current statistical VAT and the proposed EU VAT. It indicated that the methods for its calculation would be considerably simplified, more transparent and predictable by closely linking the new VAT own resource to VAT receipts actually collected by Member States, by a centralised calculation of the proportion to be applied to collected VAT receipts which would be valid for several years, and by using data which were already available in Member States. Moreover, cappings, several corrections and all the compensations existing in the current VAT system would be eliminated.

13. The Commission suggested that the elimination of the current VAT-based own resource would considerably simplify the national contributions. In parallel the introduction of new own resources would better reflect the economic situation in Member States. Moreover, the Commission indicated the advantages of a complete elimination of the current VAT-based own resource on a given date ("sudden death" approach, with a transition period only for the gradual closure of remaining historical VAT-based own resource related issues) in comparison to a lengthy phasing-out.

14. Some delegations saw in the proposed new VAT own resource the risk of losing accuracy by introducing a system which would not sufficiently take into account differences between the VAT systems existing in Member States (especially as regards the application of the reduced VAT rate to certain goods and services). Therefore, they asked for more detailed information and a numerical presentation of the effect of the proposed new system on the revenue per Member State (in particular on its mode of implementation, i.e. the “sudden death” approach) and indicated the need for additional clarification of the methodology of its calculation (in particular as regards the EU-wide average proportion of VAT receipts). Some delegations also drew attention to the high administrative burden and the cost to be borne by Member States. The Commission indicated that it was willing to address this request after publication of the Communication in November this year.

Involvement of the Taxation Working Parties

15. Several delegations underlined the necessity of the tax experts' involvement in the discussion on FTT and VAT own resources proposals. The Presidency clarified the respective responsibilities of the relevant Working Parties and presented their draft timetable till December 2011. The FTT Directive and the VAT Communication will be analysed in more detail within the work of the relevant Taxation Working Parties (e.g. the High Level Working Party and the Working Party on Tax Questions). The Presidency underlined that the Working Party on Own Resources would discuss the use of FTT and VAT for own resources purposes, taking the examination by the Taxation Working Parties into account.

Reform of the current correction mechanisms (including the reduction of TOR collection costs)

16. The Commission outlined its proposals for reforming the existing correction mechanisms. Referring to the 1984 Fontainebleau European Council agreement, it explained the need for reforming the existing system in order to better reflect the current relative prosperity of Member States, to take into account the changed expenditure structure and to allow, among the richer Member States, for a fair distribution of the additional costs resulting from the 2004 and 2007 enlargements.

17. The Commission explained that the method named "operating budgetary balances" used for the calculation of budgetary imbalances was based on the conclusions of the 1999 European Council in Berlin and applied every year in Annex 3 of its Financial Report. On the expenditure side this method excludes from the calculations all EU non-allocated expenditure, mainly under heading 4 (The EU as a global player), and all administrative expenditure under heading 5. On the revenue side, for the period post-2013, due to the proposed elimination of the current VAT-based own resource, only national contributions based on GNI are taken into account. The impact of the traditional own resources and the proposed new own resources were also not taken into consideration.

18. According to the Commission's proposals, a new system of temporary corrections in the form of lump sums in favour of the United Kingdom, Germany, the Netherlands and Sweden would be introduced as of 1 January 2014, replacing all existing correction mechanisms. From the Commission's point of view the proposed new system would offer clear advantages compared to any alternative formula-based correction mechanism since it would not discourage any Member State from implementing EU funds and would be closely related to the structure and the level of expenditure agreed in the MFF.

19. The Commission indicated that it did not exclude the possibility of revising the amounts of lump sums at a later stage in order to incorporate the impact of decisions on other elements of the MFF package and the update of the underlying macroeconomic projections.

20. Regarding the proposal on corrections, a large number of delegations asked the Commission to provide more detailed information on the data underlying the net balances for all Member States and on the method used in its analysis that had led to the identification of four Member States entitled to corrections from 2014 and for calculating the corresponding level of lump sums. Responding to the request of delegations, the Commission prepared a working document on the methodological concepts for calculating corrections. Many delegations indicated that without relevant data the proper evaluation of the Commission's proposal would not be possible.

21. A number of delegations indicated the possibility of using alternative methods of calculating budgetary balances. Some of them expressed doubts concerning the exclusion of administrative expenditure and traditional own resources (TOR) in the Commission's calculations. Others indicated that the notion of budgetary balances could be misleading since it ignored all direct and indirect effects as well as the added value of EU policies financed from the EU budget.

22. Certain delegations raised concerns about the net impact of the proposed new corrections on their national operating budgetary balance.

23. In line with the logic of the reform of the current correction mechanisms system the Commission proposed the elimination of a "hidden" correction i.e. the retention of 25% of TOR revenues collected by Member States. In the Commission's opinion this retention rate should be restricted to 10% to restore the situation prior to 2001. The Commission provided arguments and estimates on actual costs related to TOR collection borne by Member States in order to justify its proposition to reduce the retention rate of collection costs from 25% to 10%.

24. While several delegations supported the approach and arguments put forward by the Commission, other delegations questioned the reliability of the analysis presented by the Commission in relation to the reduction of TOR collection costs. They stated that only an analysis based on data provided by Member States on actual expenses incurred in TOR collection would enable an accurate estimation of the impact of the Commission's proposal.

III. Other discussed issues

25. The delegations were invited to put on the agenda all matters that they considered worth being analysed by the Working Party. As a result, the following issues were additionally discussed:

Loan guarantees and the OR ceiling

26. The Commission presented the functioning of the system of loan guarantees covered by the EU budget. It underlined that, in order to ensure the respect of the own resources ceiling, only conservative assumptions were applied in the planning of the level and schedule of guaranteed reimbursements (assuming 100% of defaults).

27. Moreover, in order to avoid the necessity of a MFF revision, the Commission included in the draft MFF Regulation a provision which excluded the potential expenditure resulting from the loan guarantees from the MFF ceilings.

Interest rate on delay in payments

28. The Commission informed that the implementing regulation to the ORD did not provide for any change in the level of the interest rate on late payment of contributions to the EU budget since the current Article 11 of Council Regulation (EC, Euratom) No 1150/2000 was not applied very often compared to the overall number of payments. According to the Commission the whole system worked properly in this respect.

29. Delegations took note of the Commission's assurance that the interest rate on late payments was appropriate to ensure the smooth financing of the Union. However, some delegations considered its level as excessively high and pointed out that the possible subsequent amounts could represent a significant burden on national budgets, especially during the current years of economic crisis.

30. Some delegations expressed also concerns that amounts unduly collected from Member States (in particular conditional payments) were reimbursed without interest.

31. The Commission underlined that currently there was no legal possibility to reimburse these amounts with interest. Moreover, it drew the attention of Member States to the fact that such an additional reimbursement would have to be covered from the EU budget (i.e. would imply the increase of Member States' contributions).

IV. Follow-up remarks

32. The discussion conducted during the meetings of the Working Party on Own Resources covered all issues that were considered by Member States as important to be examined to allow for a better understanding of the content of the Commission's proposals. However, further examination of the following issues will be necessary at a later stage of the discussions on the MFF:

- New own resources – they need be analysed in more detail once the Commission has finalised its FTT and VAT package (foreseen in November 2011). This discussion should also take into account developments and decisions taken during the work of the relevant Working Parties on taxation in relation to the FTT Directive and the VAT Communication.

- Correction mechanisms – the proposal on correction mechanisms should take into account the content of all decisions on the whole MFF package. The budgetary balances will be dependent on agreements achieved in respect of both the revenue (introduction of new EU own resources, elimination of the current VAT-based own resource and reduction of TOR collection costs) and the expenditure side of the EU budget as well as on the update of macroeconomic data.

- The level of interest on late payments and conditional payments may need to be further discussed during the analysis of the relevant proposals for regulations on the methods and procedure for making available own resources and on the measures to meet cash requirements.